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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,551	10/08/2003	Jennifer B. Owens	014033-014	2550
24239 7590 04/09/2008 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			EXAMINER JEANTY, ROMAIN	
			ART UNIT 3623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,551	Applicant(s) OWENS ET AL.	
	Examiner Romain Jeanty	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-71 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This Office action is in response to filing of this application on October 8, 2003. Claims 1-71 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 23-44 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claim 23 merely recites a computer program product comprising a computer program for facilitating risk assessment and control for an organization. The preamble of claim 23 is interpreted to be merely software components, i.e., computer program per se. Such claimed matter, which is descriptive material per se, non-functional descriptive material is not statutory because it is not a physical "thing" nor a statutory process as there are not "acts" being performed.

Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of the invention which permit the computer's program's functionality to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the program itself is not a process, without the computer-readable medium

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needed to realize the computer's functionality. In contrast, a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus mandatory. *WZarrmrdam*; 33 F.d at 1361, 31 USPQ 2d at 1760. In re Sarkar, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 19'78). See MPEP § 2106 @V) (B) (1) (a).

Claims 24-44, which depend from claim 23 is also rejected under *35 USC § 101* for the same reasons.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chakib Kara-Zaitri et al “Chakib” (A Smart Failure Mode and Effect Analysis Package) in view of Gaspare et al (Combining Computational-Simulations with Probabilistic-Risk-Assessment Techniques to Analyze Launch Vehicles)

Regarding claims 1, 21-22, 44-45, 53-54, 66-71, Chakib discloses a method of managing operational risk for an organization, the method comprising:

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identifying at least one failure mode for a function of the organization, identifying at least one cause and at least one effect for at least one of the at least one failure mode Page (414);

acquiring ratings associated with the at least one cause and the at least one effect (i.e., severity rating of the effect of failure; Page 414);

producing a risk prioritization report of the at least two risk items based at least in part on the ratings associated with the at least one cause and the at least one effect (i.e., analyze the risk effects; Pages 414 and 417).

Chakib teaches all of the limitations above but Chakib fails to explicitly disclose permuting the at least one failure mode, the at least one cause, and the at least one effect to define at least two risk items. However Gaspare in the same field of endeavor discloses the concept of permutation of all possible initial states for a particular failure mode and present the collection of current matrices of the initial failure state matrix. Note Pages 346-647 of Gaspare. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Chakib to include the teachings of Gaspare in order to determine the probability of failure responses and consequences.

Regarding claims 2, 24 and 46, the combination of Chakib and Gaspare fails to explicitly disclose recording a mitigation plan associated with at least one of the at least two risk items in the risk prioritization report and tracking implementation of the mitigation plan. However, Official Notice is taken calculation of outstanding risk taken into account mitigations is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include this well known feature into the teachings of Chakib and Gaspare in order to better improve risk assessments.

Regarding claims 3, 25 and 55, Chakib further discloses wherein the ratings further include a severity rating and a response rating associated with each of the at least one effect; and an occurrence rating and a detection rating associated with each of the at least one cause. Note Page 414.

Regarding claim 4 and 26 Chakib further discloses wherein the producing of the risk prioritization report further comprises calculating a criticality based on the severity rating and the occurrence rating, calculating a risk priority number based on the severity rating, the occurrence rating and the detection rating, and calculating an adjusted criticality based on the criticality, the severity rating, and the response rating (Page 416).

Regarding claims 5 and 27, Chakib further disclose determining whether the at least one effect is related to at least one of a group consisting of compliance and strategic planning, wherein the producing of the risk prioritization report further comprises determining whether each of the at least two risk items represents at least one of a group consisting of a compliance related risk, a strategic planning related risk, a hidden factory, and a tail event (Page 417).

Regarding claims 6 and 28, Chakib further discloses wherein the ratings further comprise a severity rating and a response rating associated with each of the at least one effect, and an occurrence rating and a detection rating associated with each of the at least one cause (Page 416).

Regarding claims 7 and 29, Chakib further discloses calculating a criticality based on the severity rating and the occurrence rating, calculating a risk priority number based on the severity rating, the occurrence rating and the detection rating, and calculating an adjusted criticality based on the criticality, the severity rating, and the response rating (Page 416).

Regarding claims 8, 30, 57, Chakib further discloses determining whether the at least one

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effect is related to at least one of a group consisting of compliance and strategic planning; wherein the producing of the risk prioritization report further comprises determining whether each of the at least two risk items represents at least one of a group consisting of a compliance related risk, a strategic planning related risk, a hidden factory, and a tail event (Pages 416-417).

Regarding claims 9-16, 31-38, 47-52, 58, 60, 62, 64, the combination of Chakib and Gaspare fails to teach the claimed features. Official Notice is taken that these features old and well known features that are claimed when calculating risks. Incorporating these claimed features in the disclosures of Chakib and Gaspare would have been obvious to a person of ordinary skill in the art with the motivation to flag automatically within the evidence tree risk acceptance criteria, underwriting guideline failure, and overriding rules.

Regarding claim 17-20, 39-43, 59, 61, 63, 65 the combination of Chakib and Gaspare fails to teach the claimed features. However, Official Notice is taken that it is old and well known in the financial art to quantify risk items based on financial data in order to manage various types of risks associated with services provided by a financial institution. Incorporating these teachings in the disclosures of Chakib and Gaspare would have been obvious to a person of ordinary skill in the art with the motivation to manage various types of risks associated with services provided by a financial institution.

Regarding claim 23, claim is a computer program product comprising a computer program for facilitating risk assessment and control for an organization, for performing the steps of method claim 1 above. Therefore claim 23 is rejected for the same reasons set forth above in claim 1.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Reynolds et al (2003/0149657) discloses a method of modeling operational risk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 31, 2008

/Romain Jeanty/
Primary Examiner, Art Unit 3623